

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JEMAINE D. PETTUS.

Petitioner,

V.

DONALD HOLBROOK,

Respondent.

CASE NO. 3:17-cv-05750-RBL-JRC

ORDER SUBSTITUTING
DEFENDANT AND FOR SERVICE
AND ANSWER, § 2254 PETITION

This is a federal habeas action filed under 28 U.S.C. § 2254. Petitioner is currently incarcerated at the Washington State Penitentiary and is subject to the Court's Electronic Filing Program pursuant to General Orders 02-15 and 06-16.

Petitioner names only the State of Washington as the defendant. In a habeas petition, under Rule 2(a) of the Rules Governing Section 2254 Cases, “the petition must name as respondent the state officer who has custody.” The superintendent of the Washington State Penitentiary is Donald Holbrook.

1 Therefore, the Clerk is directed to substitute defendant State of Washington with Ronald
2 Holbrook as reflected in the caption.

3 Further, the Court, having reviewed petitioner's federal habeas petition, hereby finds and
4 ORDERS as follows:

5 (1) The Clerk shall arrange for service by e-mail upon respondent and upon the
6 Attorney General of the State of Washington: copies of the petition, all documents in support
7 thereof, and this Order. The Clerk shall also direct a copy of this Order and of the Court's *pro se*
8 instruction sheet to petitioner.

9 (2) Within *forty-five (45) days* after such service, respondent(s) shall file and serve an
10 answer in accordance with Rule 5 of the Rules Governing Section 2254 Cases in United States
11 District Courts. As part of such answer, respondent(s) shall state whether petitioner has
12 exhausted available state remedies and whether an evidentiary hearing is necessary.
13 Respondent(s) shall not file a dispositive motion in place of an answer without first showing
14 cause as to why an answer is inadequate. Respondent(s) shall file the answer with the Clerk of
15 the Court and serve a copy of the answer on petitioner.

16 (3) The answer will be treated in accordance with LCR 7. Accordingly, on the face
17 of the answer, respondent(s) shall note it for consideration on the fourth Friday after filing.
18 Petitioner may file and serve a response not later than the Monday immediately preceding the
19 Friday designated for consideration of the matter, and respondent(s) may file and serve a reply
20 not later than the Friday designated for consideration of the matter.

21 (4) Filing by Parties, Generally

22 All attorneys admitted to practice before this Court are required to file documents
23 electronically via the Court's CM/ECF system. Petitioner shall file all documents electronically.
24

1 All filings must indicate in the upper right hand corner the name of the magistrate judge to whom
2 the document is directed.

3 Any document filed with the Court must be accompanied by proof that it has been served
4 upon all parties that have entered a notice of appearance in the underlying matter. Petitioner
5 shall indicate the date the document is submitted for e-filing as the date of service.

6 (5) Motions

7 Any request for court action shall be set forth in a motion, properly filed and served.
8 Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a
9 part of the motion itself and not in a separate document. The motion shall include in its caption
10 (immediately below the title of the motion) a designation of the date the motion is to be noted for
11 consideration on the Court's motion calendar.

12 (6) Direct Communications with District Judge or Magistrate Judge

13 No direct communication is to take place with the District Judge or Magistrate Judge with
14 regard to this case. All relevant information and papers are to be directed to the Clerk.

15 Dated this 30th day of October, 2017.

16 
17 J. Richard Creatura
18 United States Magistrate Judge